## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	December 10, 2017
Time of Incident:	10:30 am
Location of Incident:	
Date of COPA Notifica	on: December 19, 2017
Time of COPA Notifica	ion: 4:07 pm
Officers of Officers initiated a traff out of his vehicle and havehicle while the officers	erved a vehicle enter the opposite lane of traffic to pass another vehicle. estop. The driver of the vehicle, was ordered exited. stood outside his vehicle with his hands on the officers's conducted the traffic stop. An officer searched car during the ot given any paper documentation regarding the stop.
Involved Officer #1:	Star # Employee ID # Date of Appointment: 2015, Police Officer, Unit of Assignment: DOB: 1991, Male, Hispanic
Involved Officer #2:	Star # Employee ID # Date of Appointment: 2014, Police Officer, Unit of Assignment: DOB: 1981, Male, Hispanic
Involved Officer #3:	Star # Employee ID # Date of Appointment: /2014, Police Officer, Unit of Assignment: DOB: /1989, Female, White
Involved Individual	DOB: 1968, Male, Black

## III. ALLEGATIONS

Officer	Allegation	Finding/Recommendation		
	1. It is alleged that on December 10, 2017, at approximately 10:30 am, at Officer conducted an improper search of vehicle in violation of Rule 2, Rule 3, and Rule 6.	Training		
	2. It is alleged that on December 10, 2017, at approximately 10:30 am, at Officer did not properly document the traffic stop involving and the search of his vehicle in violation of Rule 2, Rule 3, Rule 5 and Rule 6.	Training		
	1. It is alleged that on December 10, 2017, at approximately 10:30 am, at Officer did not properly document the traffic stop involving and the search of his vehicle in violation of Rule 2, Rule 3, Rule 5 and Rule 6.	Training		
	1. It is alleged that on December 10, 2017, at approximately 10:30 am, at Officer did not properly document the traffic stop involving and the search of his vehicle in violation of Rule 2, Rule 3, and Rule 5 and Rule 6.	Sustained/ Reprimand and Training		

## IV. APPLICABLE RULES AND LAWS

#### Rules

- 1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- 2. **Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- 3. **Rule 5:** Failure to perform any duty.

4. **Rule 6:** Disobedience of an order or directive, whether written or oral.

# General Orders 1. GO 01-01 Mission Statement and Core Values

- 1. GO 01-01 Wission Statement and Core valu
- 2. SO S04-13-09 Investigatory Stop System
- 3. SO S04-14-09 Illinois Traffic and Pedestrian Stop Statistical Study

Federal Laws

1. U. S. Constitution, Amendment IV.

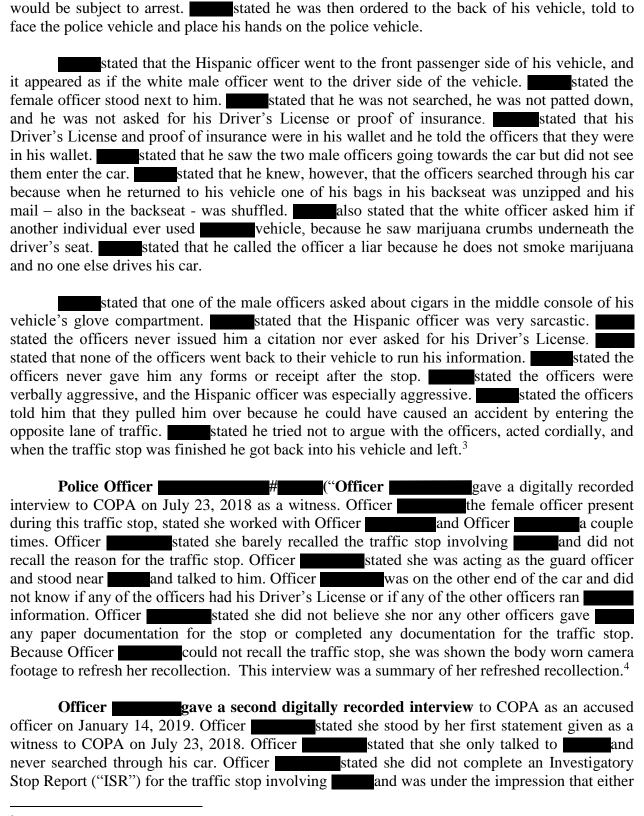
#### V. INVESTIGATION<sup>1</sup>

#### a. Interviews

gave a digitally recorded interview to COPA on December 19, 2017. In his statement, stated that on December 10, 2017, between approximately 10:30 and 11:00 a.m., he was driving his white 2013 Infiniti JX35 west on St., near Ave. and Ave. Stated he was driving alone. The stated while he was driving his car, he passed a vehicle that seemed "somewhat disabled" on the left side of St. and upon doing so, noticed the emergency lights of a police car. stated that to pass this vehicle he was momentarily in the opposite lane of traffic. Stated he figured he was being pulled over and pulled over to the side of the road. officers pulled behind him in an electric colored blue unmarked Ford with a Municipal Police license plate. After stopping, stated he lowered his driver side window halfway. then stated he put his hands where the officers could see them. there were three uniformed officers: one was possibly a white male, the other was possibly a Hispanic male, and one was possibly a white female. Stated that the officers exited their vehicle and approached his vehicle quickly, with the two male officers coming towards the driver side and the female officer coming towards the passenger side. The stated the male white officer asked to lower his window. Stated he asked the officer why he needed to lower his window further, as the officers could hear him, see him, see his hands, and had the proper documentation the officers would need. It stated the white male officer asked him to lower his window again, more forcefully. Stated the Hispanic officer then started getting aggressive and told that his behavior made him think there may be something in his mug. stated that he believed the officers were insinuating that there could be alcohol in stated at that point the traffic stop became confrontational. officers ordered him out of the car and told him that if he refused to come out of the car, he

<sup>&</sup>lt;sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>&</sup>lt;sup>2</sup> Attachment 17 03:19-03:20



<sup>&</sup>lt;sup>3</sup> Attachment 17

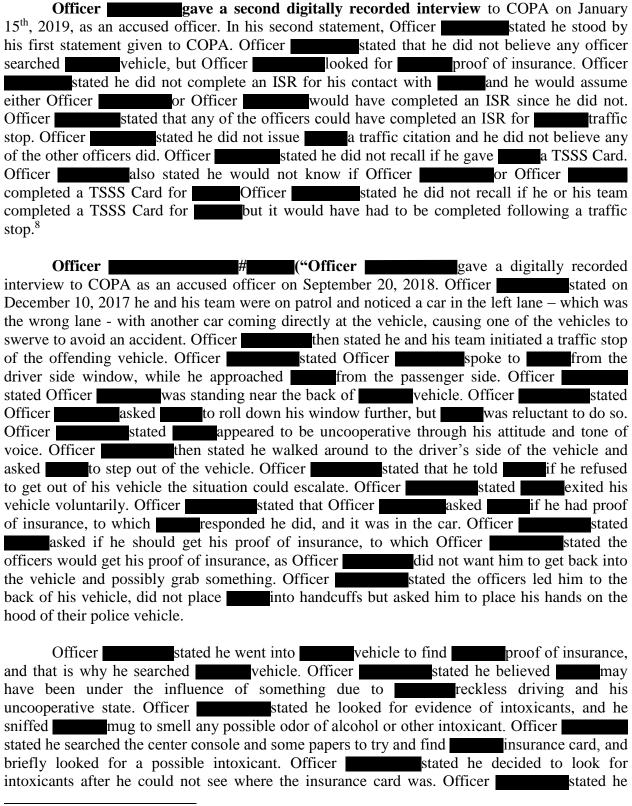
<sup>&</sup>lt;sup>4</sup> Attachment 20

Officer completed an ISR for Officer stated she was under that impression because Officer and Officer usually work together and usually complete ISR's together. Officer stated that Officer
and Officer stated was never given a traffic citation. Officer also stated she did not complete a Traffic Stop Statistical Study – Driver Information Card ("TSSS Card") for Officer stated she was under the impression that either Officer or Officer stated she was under the impression that either Officer and usually complete Driver Cards for traffic stops. Officer stated she did not properly document the traffic stop involving because she believed Officer or Officer properly documented the traffic stop. Officer stated any officer in the car could have completed an ISR or TSSS Card for the
witness on September 12, 2018. On the date and time of this incident, Officer stated he was driving the unmarked vehicle and observed recklessly enter the opposite lane of traffic and drive head on towards a vehicle, almost causing an accident. He stated that he then saw merge back to his original lane to avoid an accident. Officer stated that officers pulled over for improper lane usage. Officer stated that was agitated when he was pulled over. Officer stated that window was lowered a few inches from the top, and he could not see hands as he had an obstructed view due to the glare. Officer then stated did not want to exit his vehicle. Officer stated that after talking to opened the door and stood outside his car. Officer stated that due to irrational driving, he believed it was possible was under the influence of a drug or alcohol, but it did not appear so when he stepped out of his vehicle.
Officer stated he was near the driver side door when stated in the car. Officer stated he did not recall seeing any leafy substance or bottles in the car. Officer stated he did not smell cannabis or see cannabis in the car. Officer stated he did not see any cigars or cigarillos in vehicle. Officer stated that provided the officers with his Driver's License, but proof of his insurance was still inside his vehicle and Officer went into car to retrieve his proof of insurance. Officer stated he ran information over the PDT <sup>6</sup> (Portable Data Terminal), -Officer stood with and Officer went to car to obtain proof of insurance. Officer stated that during the traffic stop told the officers that he had proof of insurance in his vehicle and saked if he should get it, to which Officer responded that he would get it for Officer stated that information came back clear. Officer stated that responded that he understood why the officers stopped him. Officer stated that responded that he understood why the officers stopped him. Officer stated that the officers gave a verbal warning, and did not receive any paper documentation for the stop. Officer stated that he could have given a traffic citation.

<sup>&</sup>lt;sup>5</sup> Attachment 33

<sup>&</sup>lt;sup>6</sup> Portable Data Terminal

<sup>&</sup>lt;sup>7</sup> Attachment 24



<sup>&</sup>lt;sup>8</sup> Attachment 38

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wanted to make sure was not under the influence of any intoxicants. Officer
stated did not give him permission to search his car. Officer stated he searched
through a bag on the back seat of vehicle to make sure there were no intoxicants. Officer
stated he did not smell an odor of alcohol or cannabis. Officer stated he
saw crumbles of suspect cannabis underneath the driver seat. Officer stated he
believed the crumbs were cannabis based off his experience as a police officer. Officer
stated he did not believe smelled of cannabis, but he advised that he
should look underneath the driver side and clean it if someone else was using his vehicle. Officer
stated none of the officers issued a citation but gave him a warning. Officer
stated he did not know of any paper documentation being completed or given to
Officer stated that if Chicago Police Officers do not issue a traffic citation they
still complete a TSSS Card, but he could not recall if a TSSS Card was completed for and
this traffic stop. Officer stated any of the officers could have completed the TSSS
Card. <sup>9</sup>
b. Digital Evidence
Body Worn Camera (BWC) footage captures the alleged incident. Officer
<b>Duty Work Camera (DWC)</b> rootage captures the aneged merdent. Officer

## the officers' interaction with the BWC is corroborative of the wersion of events. 10

**Documentary Evidence** 

An **Attendance and Assignment Record Sheet** for District 4<sup>th</sup> watch, for the date of 12/10/2017, shows that Officer Officer and Officer were working together as a team of three officers. The Record shows that the three officers worked Beat and worked in car

and Officer were each equipped with a BWC and all three captured

#### VI. LEGAL STANDARD

c.

For each Allegation COPA must make one of the following findings:

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or

<sup>&</sup>lt;sup>9</sup> Attachment 28

<sup>&</sup>lt;sup>10</sup> Attachment 19

<sup>&</sup>lt;sup>11</sup> Attachment 7

4. <u>Exonerated</u> - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct occurred and violated Department policy. See Avery v. State Farm Mutual Automobile Insurance Co., 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

#### VII. ANALYSIS

a. Officer improperly searched vehicle

Under the "automobile exception" to the search warrant requirement, "law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize." *People v. James*, 163 Ill. 2d 302, 312 (Ill. 1994) (citing *Carroll v. United States*, 267 U.S. 132 (1925)). "When officers have such probable cause, the search may extend to 'all parts of the vehicle in which contraband or evidence could be concealed, including closed compartments, containers, packages, and trunks." *United States v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013) (citing *United States v. Williams*, 627 F.3d 247, 251 (7th Cir. 2010)).

The BWC footage demonstrates that which is to a search of his vehicle. Officer stated that he searched wehicle to look for (1) insurance card and (2) evidence of intoxicants.

First, Officer was not permitted to search vehicle for insurance card. Insurance card would not constitute proof of a crime. While Officer may have wanted to verify that had proof of insurance in the vehicle, as required by Illinois law, specifically stated he possessed proof of insurance and offered to go back inside his vehicle to retrieve the insurance card. While Officer was not required to permit to return to his vehicle to retrieve the insurance card and was legally permitted to order out of the vehicle, he could not then use this as a lawful basis to search vehicle.

Second, Officer did did not have probable cause to believe he would find evidence

of intoxicants in the vehicle. Officer stated that he believed that was intoxicated

<sup>12</sup> The fact that possessed a travel mug, a lawful item, also did not provide probable cause to search the vehicle. The officers did not assert that the mug provided a basis to search the vehicle.

<sup>13</sup> In cases where a personal service citation is issued, this information must be included on a Traffic Stop Statistical

Study Sticker.

Department Commendation 3
Honorable Mention: 63
Complimentary Letter 2
Honorable Mention Ribbon Award 1
Top Gun Arrest Award 2
Annual Bureau Award of Recognition 1
Unit Meritorious Performance Award 2

2. Officer has the following disciplinary history:

Reprimand – 005 – Court Appearance Violation 1 Day Off – 022A – Current IL License Plates And/Or City Vehicle Stickers

#### ii. Recommended Penalty, by Allegation

- 1. COPA recommends a penalty of a one (1) day suspension for Allegation No. 1. Additionally, the officer should be provided appropriate additional training.
- 2. COPA recommends a penalty of Reprimand for Allegation No. 2. Additionally, the officer should be provided appropriate additional training.

#### b. Officer #

- i. Complimentary and Disciplinary History
  - 1. Officer has the following complimentary history:

Attendance Recognition Award: 1 Department Commendation: 3 Honorable Mention: 55

Complimentary Letter: 2 Top Gun Arrest Award: 2

Unit Meritorious Performance Award: 1

2. Officer has the following disciplinary history:

None

#### ii. Recommended Penalty, by Allegation

1. COPA recommends a penalty of Reprimand for Allegation No. 1. Additionally, the officer should be provided appropriate additional training.

#### c. Officer #

- i. Complimentary and Disciplinary History
  - 1. Officer has the following complimentary history:

Emblem of Recognition: 2 Honorable Mention: 28 Complimentary Letter: 4 Life Saving Award: 1

Unit Meritorious Performance Award: 1

2. Officer has the following disciplinary history:

None

## ii. Recommended Penalty, by Allegation

1. COPA recommends a penalty of Reprimand for Allegation No. 1. Additionally, the officer should be provided appropriate additional training.

## IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Allegation	Finding/Recommendation		
1. It is alleged that on December 10, 2017, at approximately 10:30 am, at Officer	Sustained/One (1) day suspension and training		
conducted an improper search of vehicle.			
2. It is alleged that on December 10, 2017, at approximately 10:30 am, atOfficerdid not properly document the traffic stop involving Mrand the search of his vehicle.	Sustained/ Reprimand and training		
Allegation Finding			
1. It is alleged that on December 10, 2017, at approximately 10:30 am, at Officer did no properly document the traffic stop involving Mr. and the search of his vehicle.	t and training		

Allegation		Finding/R	ecommenda .	ıtion
It is alleged that on December 10, 2017, at approxim, at Officer of properly document the traffic stop involving Mr. earch of his vehicle.	mately 10:30 did and the	Sustained/ training	Reprimand	and
Approved:				
	3-2	7-19		
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Deputy Chief Administrator	Date			
	Marcl	n 28, 2019		
	Date			
Chief Administrator				

## Appendix A

Assigned Investigative Staff

